

# Notice of Allowability

Application No.

10/776,828

Examiner

Joseph Kosack

Applicant(s)

CHERNEY ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment After Final filed 22 June 2006.
2. ☒ The allowed claim(s) is/are 1-14, 16-19 and 37.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-14, 16-19, 25-26, 29, and 37-38 are pending in the instant application.

#### ***Amendments***

The amendment to the claims filed on June 22, 2006 has been acknowledged and has been entered into the application.

#### ***Election/Restrictions***

The Restriction Requirement made on November 15, 2005 was made final in the office action mailed on January 18, 2006.

#### ***Previous Claim Rejections - 35 USC § 103***

Claims 1-14 and 16-19 were rejected in the action mailed on January 18, 2006 under 35 U.S.C. 103(a) as being unpatentable over Ewing et al. (WO 99/37304 A1). The rejection was made final in the action mailed on April 26, 2006. Applicant's arguments were found to be persuasive and the rejection is withdrawn.

Claim 37 was rejected in the action mailed on April 26, 2006 under 35 U.S.C. 103(a) as being unpatentable over Ewing et al. (WO 99/37304 A1). The rejection was made final in the action mailed on April 26, 2006 as it was necessitated by amendment. Applicant's arguments were found to be persuasive and the rejection is withdrawn.

#### ***Status of the Claims***

Claims 1-14, 16-19, 25-26, 29, and 37-38 are pending in the instant application.

#### ***Withdrawal of Finality of Previous Action***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### EXAMINER'S AMENDMENT

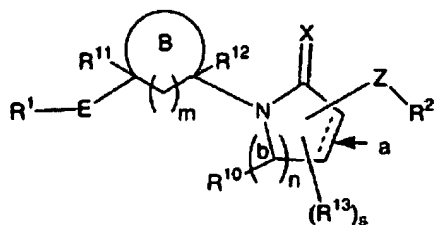
An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Laurelee A. Duncan on July 5, 2006.

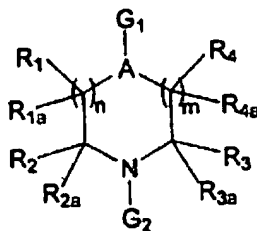
Delete claims 25, 26, 29, and 38.

### *Reasons for Allowance*

The present invention is drawn to compounds of the formula:



with substitutions as defined. The closest prior art



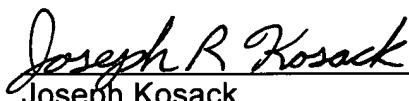
teaches compounds of the formula: , which does not anticipate or adequately suggest the instant invention. Therefore, claims 1-14, 16-19, and 37 are allowed.

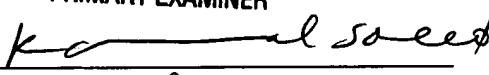
***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Kosack whose telephone number is (571)-272-5575. The examiner can normally be reached on M & W 5:30 A.M.-6:00 P.M. and T & Th 5:30 A.M.-2:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571)-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Joseph Kosack  
Patent Examiner  
Art Unit 1626

KAMAL A. SAEED, PH.D.  
PRIMARY EXAMINER  
  
for Joseph K. McKane  
Supervisory Patent Examiner  
Art Unit 1626